

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent No Tax Money for Political Campaigns, No on Prop. O, (the “Committee”) was a committee primarily formed for the purpose of opposing the passage of Proposition O in the City of San Francisco in the 2000 general election. At all times relevant to this matter, Respondent James Sutton, a political attorney and professional treasurer, served as the treasurer of Respondent Committee.

The Political Reform Act (the “Act”)<sup>1</sup> requires primarily formed ballot measure committees, and the treasurers of those committees, to file campaign statements at specific times, disclosing information regarding contributions received and expenditures made by the committee. In this matter, Respondents failed to file a pre-election campaign statement disclosing contributions received and expenditures made in opposition to Proposition O.

For the purposes of this stipulation, Respondents’ violation of the Act is stated as follows:

Respondents No Tax Money for Political Campaigns, No on Prop. O, and James Sutton failed to file a second pre-election campaign statement, for the reporting period October 1, 2000 to October 21, 2000, by the October 26, 2000 due date, in violation of section 84200.5, subdivision (b) of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish these purposes of disclosure.

#### **A. Duty to File Pre-election Statements**

Section 84200.5, subdivision (b) requires that a committee primarily formed to support or oppose a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, must file pre-election campaign statements in

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

accordance with section 84200.7.

Section 84200.7, subdivision (b)(2) requires a primarily formed committee to file a second pre-election campaign statement for a November general election in an even-numbered year no later than 12 days before the election, for the reporting period ending 17 days before the election.

Section 84211, subdivisions (b) and (k) requires a committee to disclose all of its expenditures on a campaign statement for the applicable reporting period, and to itemize all expenditures of \$100 or more. Under section 82025, an “[e]xpenditure means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes....”

#### B. Treasurer Liability

Under section 84100 and regulation 18427, subdivision (a), a committee’s treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee’s reporting violations.

### **SUMMARY OF THE FACTS**

As a primarily formed ballot measure committee, Respondent Committee was required to file a second pre-election campaign statement by October 26, 2000, disclosing \$47,927.11 in expenses it incurred during the reporting period October 1, 2000 to October 21, 2000 in connection with a campaign mailer opposing the ballot measure. Respondents did not file a second pre-election campaign statement by October 26, 2000, disclosing these expenses.

By failing to file a second pre-election campaign statement by October 26, 2000, Respondents violated section 84200.5, subdivision (b).

### **CONCLUSION**

This case involves one count of violating the Act, with a potential maximum penalty of \$2,000. The historical penalty range for this type of violation is \$1,500-\$2,000.

Although Respondents failed to meet their reporting requirements, Respondent Committee was formed very late in the election cycle, and it appears that the violation in this case occurred as a result of confusion surrounding whether the expenditures were incurred during the second pre-election reporting period, rather than any intent to evade disclosure. Additionally, Respondents’ opposition to the ballot measure was unsuccessful. Nonetheless, due

to the significance of the non-disclosure and Respondent Sutton's experience as a treasurer, imposition of a penalty of One Thousand Five Hundred Dollars (\$1,500) is justified.